

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

**FREEDOM FROM RELIGION
FOUNDATION, INC.; ANNE LAURIE
GAYLOR and DAN BARKER,**

Plaintiffs,

v.

Case No.: 09-CV-439

**STEPHEN AYERS, ACTING
ARCHITECT OF THE CAPITOL,**

Defendant.

UNOPPOSED MOTION TO CONTINUE PRETRIAL CONFERENCE

Defendant Stephen Ayers, Acting Architect of the Capitol (“Defendant”) hereby moves the Court, pursuant to Federal Rule of Civil Procedure 7 and without opposition, to continue the Pretrial Conference now scheduled for October 30, 2009, until Defendant’s Motion to Dismiss, which will be filed not later than November 13, is resolved. In support of this motion, Defendant states as follows:

1. The Court has set a Pretrial Conference in this matter for October 30, 2009, at 9:00 a.m.
2. Defendant will be filing a motion to dismiss no later than November 13, 2009, sixty days after the Complaint in this case was served upon the United States Attorney. See Fed. R. Civ. P. 12(a)(2). The motion will assert that this case should be dismissed in its entirety. Furthermore, the motion will raise, *inter alia*, jurisdictional issues that should be resolved before any further proceedings.
3. Defendant’s motion to dismiss, if granted, will dispose of all legal issues in the

case and result in dismissal of the Complaint. Accordingly, to conserve judicial resources and minimize litigation costs, there is good cause to defer the Pretrial Conference, and to stay all pretrial and Rule 26 proceedings, until the motion to dismiss is resolved.

4. The granting of this motion will result in the continuance of the Pretrial Conference now scheduled for October 30, 2009, at 9:00 a.m.
5. Undersigned counsel has conferred regarding this matter with counsel for Plaintiffs, Mr. Richard L. Bolton, who has indicated that Plaintiffs do not oppose this motion.
6. Due to the nature of this consented-to motion, no supporting memorandum of law is necessary.

WHEREFORE, Defendant respectfully requests that the Court continue the Pretrial Conference until Defendant's forthcoming motion to dismiss is resolved.

DATED: October 22, 2009

Respectfully submitted,

TONY WEST
Assistant Attorney General

JOHN R. GRIFFITHS
Assistant Branch Director

/s/ Bryan Dearinger
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2009, I electronically filed a copy of Defendant's Unopposed Motion to Continue Pretrial Conference using the ECF System for the Western District of Wisconsin, which will send notification of that filing to all counsel of record in this litigation.

/s/ Bryan Dearinger _____
BRYAN DEARINGER
Trial Attorney
United States Department of Justice